

Serial No. 09/380,519, filed 3 September 1999
Docket No. 1103326-0584
Page 5 of 7

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REMARKS

I. Claim Amendments

Claims 3, 4, 10-14 and 19-21 have been canceled without prejudice. Upon entry of this amendment, claims 1, 2, 5-9 and 15-18 are pending. Applicants reserve the right to file a divisional and/or continuation application directed to the canceled subject matter.

II. Restriction and Election of Species Requirements

A restriction requirement under 35 U.S.C. §121 was issued in the subject application. It is alleged that the subject application contains the following inventions or groups of inventions which are independent and patentably distinct:

Group I: claims 1-14 and 20, drawn to a mounting apparatus for a chord;

Group II: claims 15-16, drawn to a surgical kit comprising a mounting apparatus for a cord, and

Group III: claims 17-19 and 21, drawn to a surgical method for mounting a cord.

As stated in the Office Action, the Examiner alleges that the inventions of Groups I-III do not share a special technical feature distinguishing the inventions over the prior art. Specifically, the Examiner states that the technical feature linking Groups I-III is the mounting apparatus for mounting a cord which is known in the prior art as shown by US 4,493,319 to Polk et al. ("Polk") within at least Figures 1 and 3A-C.

In addition to the restriction requirement, the claims are subject to an election of species requirement. According to the Examiner, the claims are directed to more than one species of the generic invention. The Examiner relies on Polk in support of the election of species requirement. The species are as follows:

Species A: Figures 9-18 (claims 1-9), and

Species B: Figures 20-23 (claims 10-13 and 19).

In response to the restriction and election of species requirements, Applicants elect Group I and Species A. As stated on page 3 of the Office Action, additional species will be entitled to consideration upon the allowance of a generic claim. In this regard, the Examiner has identified claims 14-18, 20 and 21 as being generic.

Serial No. 09/380,519, filed 3 September 1999
Docket No. 1103326-0584
Page 6 of 7

At least with respect to the claims of Group I, claims 1, 2 and 5-9 and generic claims 15-18 appear to read on the elected species. It appears, therefore, that all of the now pending claims read on the elected species.

II. Traversal of the Restriction and Election of Species Requirements

The claimed mounting apparatus is characterized by a special technical feature in the form of its novel structure and cooperation of its component parts which impart an operational advantage to the claimed mounting apparatus. All of the now pending claims of Groups I-III, i.e., claims 1, 2, 5-9 and 15-18, share this same special technical feature. As recited by claim 1, the claimed mounting apparatus comprises the following components:

- (1) a tapered adaptor comprising a plurality of circumferentially spaced-apart fingers extending from the rear larger end towards the forward smaller end of the adaptor, and
- (2) an expander device comprising a plurality of circumferentially spaced-apart arms which are insertable between the fingers of the adaptor.

As described in specification and as illustrated by the Figures, the expressly recited structure of the tapered adaptor and expander device permits these components to cooperate or mesh with each other in such a way as to impart certain operational advantages to the claimed invention.

In contrast to the claimed invention, Polk discloses a mounting device wherein the expander device and tapered adaptor do not mesh. Rather, the adaptor disclosed by Polk has a relatively smooth surface without circumferentially spaced-apart fingers. The expander device is elastically deformable. In this type of mounting device, the expander device is adapted to fit the forward end of the adaptor and to abut the adaptor with an inward pressure towards the adaptor when it is forced to expand.

It is evident, therefore, that the structure and cooperation of components of the claimed invention are neither disclosed nor suggested by Polk. Applicants respectfully submit, therefore, that the Examiner's reliance on Polk in support of the restriction and election of species requirements is misplaced. Accordingly, the restriction and election of species requirements represent reversible error.

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Serial No. 09/380,519, filed 3 September 1999
Docket No. 1103326-0584
Page 7 of 7

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FEB 29 2008

Furthermore, the same claims as presented in the related European patent application were found by the European Patent Office to be patentable over Polk.

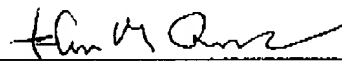
Finally, as previously stated, all of now pending claims 1, 2, 5-9 and 15-18 appear to read on the elected species.

For all of the foregoing reasons, the Examiner is requested to withdraw the restriction and election of species requirements and rejoin amended claims 1, 2, 5-9 and 15-18 for examination in this application.

The Commissioner is authorized to charge any fee which may be due in connection with this communication to Deposit Account 23-1703.

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Respectfully submitted,



John M. Genova
Reg. No. 32,224

Customer Number: 007470
Direct Dial: (212) 819-8832